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09/993,243	11/06/2001	John T. McHale IV	66944/8455	1052
21888 7590 07/24/2008 THOMPSON COBURN, LLP ONE US BANK PLAZA SUITE 3500 ST LOUIS, MO 63101				
EXAMINER				
GORT, ELAINE L				
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Please find below and/or attached an Office communication concerning this application or proceeding.

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JOHN T. MCHALE,
AND JEROME KATZ

Application No. 09/993,243
Technology Center 3600

Mailed: July 23, 2008

Before DALE M. SHAW, *Chief Appeals Administrator*.
SHAW, *Chief Appeals Administrator*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received electronically at the Board of Patent Appeals and Interferences on March 13, 2008. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matter requiring attention prior to docketing is identified below.

APPEAL BRIEF

On November 20, 2006, Appellants filed an Appeal Brief. A review of the file reveals that claims 65 and 68 in the Claims Appendix (pgs. 12 & 13) are not consistent as amended in the Amendment filed on July 28, 2005.

Correction is required.

An entire new brief need not, and should not, be filed. Rather, a paper providing a corrected Claims 65 and 68 (Claims Appendix) a required by 37 CFR 41.37(c)(1)(vii) will suffice. Failure to timely respond to the Office's requirement will result in dismissal of the appeal. See MPEP § 1215.04 and §711.02(b).

CONCLUSION

Accordingly, it is

ORDERED that the application is returned to the Examiner:

- 1) to hold the Appeal Brief received July 20, 2005, defective;
- 2) direct Appellant to file a "paper" (as identified above) in compliance with 37 CFR 41.37(c) (1) (vii);
- 3) for the Examiner to issue and mail a form PTOL-90 considering and/or acknowledging Appellant's paper; and
- 4) for such further action as may be appropriate.

Application No. 09/993,243

DMS/dal

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